

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ohohshecha Defoe,

Petitioner,

v.

Joan Fabian,

Respondent.

ORDER

Civil No. 10-4939 ADM/AJB

Ohohshecha Defoe, pro se.

This matter is before the undersigned United States District Judge for a ruling on Petitioner Ohohshecha Defoe's ("Defoe") Objections [Docket No. 9] to Chief Magistrate Judge Arthur J. Boylan's January 13, 2011 Report and Recommendation ("R&R") [Docket No. 7]. Judge Boylan concluded that Defoe's Petition for Writ of Habeas Corpus [Docket No. 1] did not present any federal constitutional claim and that Defoe failed to exhaust his state court remedies. Judge Boylan therefore recommended that Defoe's habeas corpus petition be summarily dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases, and that Defoe's Application for Leave to Proceed in forma pauperis [Docket No. 2] and Motion for Appointment of Counsel [Docket No. 3] be denied. Based on a de novo review of the record, Defoe's Objections are overruled and the R&R is adopted.

Judge Boylan correctly found that Defoe's Petition is not based on the federal Constitution or any federal law, and instead presents solely an issue of Minnesota state law, precluding federal habeas corpus review. In addition, Judge Boylan properly determined that even if Defoe intended to raise a constitutional claim, that claim is not reviewable in this federal

habeas corpus proceeding because Defoe has not sought review of the claim by the Minnesota Supreme Court.

Accordingly, based upon the foregoing, and all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defoe's Objections [Docket No. 9] are **OVERRULED**;
2. Judge Boylan's R&R [Docket No. 7] is **ADOPTED**;
3. Defoe's Petition [Docket No. 1] is **DISMISSED**;
4. Defoe's Application for Leave to Proceed in forma pauperis [Docket No. 2] is **DENIED**; and
5. Defoe's Motion for Appointment of Counsel [Docket No. 3] is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: March 3, 2011.